

ADMINISTRATIVE PANEL DECISION

Aldi GmbH & Co. KG, Aldi Stores Limited v. Whois protection, this company does not own this domain name s.r.o / Hulmiho Ukolen, Poste restante
Case No. D2022-3480

1. The Parties

The Complainants are Aldi GmbH & Co. KG, Germany, and Aldi Stores Limited, United Kingdom, represented by Freeths LLP, United Kingdom (“UK”).

The Respondent is Whois protection, this company does not own this domain name s.r.o., United Arab Emirates / Hulmiho Ukolen, Poste restante, Finland.

2. The Domain Name and Registrar

The disputed domain name <aldimazon.com> is registered with Gransy, s.r.o. d/b/a subreg.cz (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 20, 2022. On September 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 21, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainants on September 21, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on September 22, 2022.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 13, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 17, 2022.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on October 20, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainants in this administrative proceeding are (1) Aldi GmbH & Co. KG, a company registered under the laws of Germany, and (2) Aldi Stores Limited, a company incorporated under the laws of England with company number 02321869 (hereinafter referred to together as the "Complainants"). The Complainants are part of the same corporate group and under common control, and both Complainants have an interest in the rights relied upon, and therefore a common grievance against the Respondent. Aldi GmbH & Co. KG owns, and Aldi Stores Limited is the exclusive licensee in the UK of, various registered trademarks which comprise and/or include the ALDI sign.

Aldi Stores Limited was incorporated in 1988. The company name was Aldi Limited from 1988 to 1989, and in 1989 it was changed to its current name of Aldi Stores Limited. It is a well-known supermarket under common control with Aldi GmbH, and as a licensee of the aforementioned ALDI trademarks, it trades under the ALDI name.

The Complainant Aldi GmbH & Co. KG owns the ALDI trademarks, which enjoy protection through several registrations in many countries.

The Complainant Aldi GmbH & Co. KG is, *inter alia*, the owner of:

UK trademark ALDI registration no. UK00002250300 registered on March 30, 2001;

European Union Trade Mark ("EUTM") ALDI registration No. 002071728 registered on April 14, 2005;

EUTM ALDI registration No. 002714459 registered on September 5, 2003;

EUTM ALDI registration No. 003360914 registered on June 2, 2010.

In addition, for their operations in the United Kingdom, the Complainants operate a website hosted under the domain name <aldi.co.uk>.

The disputed domain name was registered on March 31, 2022.

The disputed domain name directs to a webpage displaying sponsored links relating to goods or services which are specifically sold by the Complainants.

The Complainants' trademark registrations predate the registration of the disputed domain name.

5. Parties' Contentions

A. Complainants

The Complainants claim that the disputed domain name is confusingly similar to the ALDI trademark registrations.

The Complainants further state that the Respondent has no rights or legitimate interests whatsoever with respect to the disputed domain name. No license, or authorization of any other kind, has been given by the Complainants to the Respondent to use the ALDI trademarks.

The Complainants thus conclude that the disputed domain name has been (or is planned to be) intentionally used to attract Internet users, for commercial gain, to any website hosted at the disputed domain name by creating a likelihood of confusion with the ALDI trademark, such confusion encompassing the source, sponsorship, affiliation or endorsement of the website of the Respondent.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

In order for the Complainants to obtain a transfer of the disputed domain name, paragraphs 4(a)(i) – (iii) of the Policy require that the Complainants must demonstrate to the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants have rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainants have established rights in the ALDI trademarks.

The disputed domain name contains the Complainants' trademark in its entirety combined with the term "mazon".

This addition in the disputed domain name does not prevent a finding of confusing similarity with the Complainants' trademark, which is still clearly recognizable.

This Panel agrees with the Complainants' view that the ALDI trademark is clearly recognizable and that the addition of the "mazon" term does not avoid a finding of confusing similarity.

See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element".

Furthermore, the applicable generic Top-Level Domain ("gTLD") ".com" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

Therefore, the Panel finds the disputed domain name to be confusingly similar to the ALDI trademarks in which the Complainants have rights.

Accordingly, the Panel finds that the Complainants have satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

This Panel finds that the Complainants have made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent has no connection or affiliation with the Complainants and the Complainants have not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainants' trademark. The Respondent does not appear to engage in any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. In addition, the Respondent does not appear to be

commonly known by the disputed domain name or by a similar name. Moreover, the Respondent has not replied to the Complainants' contentions, claiming any rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Complainants have satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Based on the evidence put forward by the Complainants, the Panel is of the opinion that the Respondent was aware of the Complainants' trademark registrations and rights to the ALDI trademarks when it registered the disputed domain name.

The Complainants' ALDI trademark has apparently no meaning aside from referring to the Complainants' name, goods and services. It has been registered and used for many years and is a renowned trademark, especially in the supermarket sector. Hence, the registration of the disputed domain name does not seem to be a coincidence, and thus indicates that the Respondent knew of the Complainants' trademark and intentionally intended to create an association with the Complainants and their business at the time of registration of the disputed domain name.

Inference of bad faith can also be made in the failure to respond to the Complainants' contentions, and the Respondent's lack of any rights or legitimate interests in the disputed domain name.

Further corroboration of bad faith can be found in the fact that the disputed domain name directs to a webpage displaying sponsored links relating to goods or services which are specifically sold by the Complainants. By using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainants' trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain names in bad faith.

Therefore, the Complainants have satisfied paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <aldimazon.com>, be transferred to the Complainants.¹

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: November 1, 2022

¹ The Complainants asked for the disputed domain name to be transferred to the leading Complainant, however they have not specified who that is. The Complainants should advise the Registrar which of them is to receive the transfer of the disputed domain name.